



# *COMMONWEALTH of VIRGINIA*

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Blue Ridge Regional Office

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Douglas W. Domenech  
Secretary of Natural Resources

David K. Paylor  
Director

Robert J. Weld  
Regional Director

**Lynchburg Office**  
7705 Timberlake Road  
Lynchburg, Virginia 24502  
(434) 582-5120  
Fax (434) 582-5125

**Roanoke Office**  
3019 Peters Creek Road  
Roanoke, Virginia 24019  
(540) 562-6700  
Fax (540) 562-6725

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO CELANESE ACETATE LLC

**Registration Number 20304**

### SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Celanese Acetate LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and/or regulations.

### SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "Celanese Acetate LLC" means Celanese Acetate LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Celanese Acetate LLC is a "person" within the meaning of Va. Code § 10.1-1300.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. “Facility” means the Celanese Acetate LLC utility facility, located at 3520 Virginia Avenue in Giles County, Virginia.
8. “Notice of Violation” or “NOV” means a type of Notice of Violation under Va. Code § 10.1-1309.
9. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the Virginia Air Pollution Control Law.
10. “PCE” means a partial compliance evaluation by DEQ staff.
11. “Permit” means a Title V permit to operate a utility facility including fuel-burning equipment to provide steam, electricity, and other utilities to Celanese Acetate, LLC, which was issued under the Virginia Air Pollution Control Law and the Regulations to Duke Energy Generation Services of Narrows LLC on March 12, 2003 and amended on August 17, 2004. The Permit was transferred to Celanese Acetate LLC on March 17, 2011.
12. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” means 9 VAC 5 Chapters 10 through 80.
13. “Va. Code” means the Code of Virginia (1950), as amended.
14. “VAC” means the Virginia Administrative Code.
15. “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Celanese Acetate LLC owns and operates the Facility in Giles County, Virginia. The Facility is a utilities complex containing nine boilers and is the subject of the Permit which allows the operation of industrial boilers for steam and electricity.
2. On September 9, 2011, Department staff conducted a PCE of the Title V Semi-Annual Monitoring Report for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. This report covered the time period of March 17, 2011 through June 30, 2011. Based on the evaluation and follow-up information, Department staff made the following observations:
  - a. The Facility failed to operate a standby monitoring system or conduct Method 7, 7A, or other approved reference methods in order to obtain emissions data during the reporting period when CEMS (related to Boiler No. 9) were either malfunctioning or being repaired. Therefore, emissions data was not obtained for a minimum of 75% of the operating hours in each steam unit operating day, in at least 22 out of 30 successive steam generating unit operating days.

3. Permit condition II.A.7 of the Permit states: Boiler No. 9 shall be operated in accordance with 40 CFR 60, Subpart Db. Terms included in conditions of this permit that are related to Boiler No. 9 and that contain terms and conditions from 40 CFR Part 60 Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units shall have the meaning as defined in 40 CFR 60.2 and 40 CFR 60.40b. (9 VAC 5-170-160, 40 CFR 60.40b & Condition II.A.7 of 8/22/2002 SOP).
4. Permit condition II.B.1 of the Permit states: A Continuous Emission Monitoring System (CEMS), meeting the design specifications of 40 CFR Part 60, Appendix B, shall be installed to measure and record the emissions of NOx from the Boiler No. 9 stack as lbs/MMBtu. The CEMS shall be installed, calibrated, maintained, audited and operated in accordance with the requirements of 40 CFR 60.13, Part 60 NSPS Subpart Db and Appendices B and F or DEQ approved procedures which are equivalent to the requirements of 40 CFR 60.13 and Appendices B and F. (9 VAC 5-50-40, 40 CFR 60 Subpart Db & Condition II.B.1 of 2002 SOP)
5. 40 CFR 60.489 (f) states: When NOx emission data are not obtained because of CEMS breakdowns, repairs, calibration checks and zero and span adjustments, emission data will be obtained by using standby monitoring systems, Method 7 of appendix A of this part, Method 7A of appendix A of this part, or other approved reference methods to provide emission data for a minimum of 75 percent of the operating hours in each steam generating unit operating day, in at least 22 out of 30 successive steam generating unit operating days.
6. On October 11, 2011, based on the evaluation and follow-up information, the Department issued Notice of Violation AWCRO No. 8176 to Celanese Acetate LLC for the violations described in paragraphs C(2) through C(5), above.
7. On November 3, 2011, Department staff met with representatives of Celanese Acetate LLC to discuss the violations, including Celanese Acetate LLC's written response.
8. Based on the results of the September 9, 2011 evaluation and the November 3, 2011 meeting, the Board concludes that Celanese Acetate LLC has violated Permit conditions II.A.7, II.B.1, and 40 CFR 60.489 (f), described in paragraphs C(2) through C(5), above.
9. Celanese Acetate LLC has submitted documentation that verifies that the violations described in paragraphs C(2) through C(5) above, have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316, the Board orders Celanese Acetate LLC, and Celanese Acetate LLC agrees to pay a civil charge \$13,122.20 within 45 days of the effective date of this Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Celanese Acetate LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Celanese Acetate LLC for good cause shown by Celanese Acetate LLC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Celanese Acetate LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Celanese Acetate LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Celanese Acetate LLC declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Celanese Acetate LLC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Celanese Acetate LLC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Celanese Acetate LLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Celanese Acetate LLC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

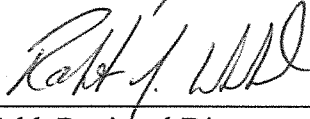
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Celanese Acetate LLC. Nevertheless, Celanese Acetate LLC agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Celanese Acetate LLC has completed all of the requirements of the Order;
  - b. Celanese Acetate LLC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Celanese Acetate LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Celanese Acetate LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Celanese Acetate LLC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Celanese Acetate LLC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Celanese Acetate LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Celanese Acetate LLC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Celanese Acetate LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 17<sup>th</sup> day of January 2012.



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Robert J. Weld, Regional Director  
Department of Environmental Quality

Celanese Acetate LLC voluntarily agrees to the issuance of this Order.

Date: 1-12-2012

By: \_\_\_\_\_

Bill Batson  
Bill Batson, Site Director  
Celanese Acetate, LLC

Commonwealth of Virginia,

City/County of Giles

The foregoing document was signed and acknowledged before me this 12 day of  
January, 2012, by Bill Batson who is Site Director of Celanese Acetate LLC  
on behalf of the Company.

Ora Lea Lucas-Belcher  
Notary Public

338567  
Registration No.

My commission expires: 9-30-15

Notary Seal:

